



**US Army Corps
of Engineers
Louisville District**

Public Notice

Public Notice No.

200400572

Date:

7 Jun 04

Closing Date:

7 Jul 04

Please address all comments and inquiries to:

U.S. Army Corps of Engineers, Louisville District

ATTN: Mr. Greg McKay, CELRL-OP-FS

P.O. Box 59

Louisville, Kentucky 40201-0059

Phone: (502) 315-6685

This notice announces an application submitted for a Department of the Army (DA) Permit, subject to Section 404 of the Clean Water Act (CWA).

APPLICANT: Shepherdsville Associates, LLC
 713 West Main Street
 Louisville, Kentucky 40202-2684

AGENT: Eco-Tech, Incorporated
 1003 East Main Street
 Frankfort, Kentucky 40601

LOCATION: In an unnamed tributary of the Salt River and its
 adjacent wetlands located northwest of the I-65 and KY
 44 interchange in Shepherdsville, Bullitt County, KY

Latitude: 37 -59-42.3892
Longitude: 85 -42-35.5447
7.5 Minute Quad: Brooks & Shepherdsville, KY

PURPOSE: The purpose of the proposed fill is to construct a
 commercial development for additional space to include a
 cinema and associated parking.

DESCRIPTION OF WORK: The applicant proposes to discharge 65,966 cubic yards of clean earthen fill material into 1.46 acres of forested wetlands (Wetlands A-D on the attached sheet 2 of 6) to facilitate the construction of a commercial development and associated parking. Additionally, 875 linear feet of stream (labeled UT 1, 1a on the attached sheet 2 of 6) would be enclosed in a 96-inch diameter pipe and backfilled.

MITIGATION: The applicant proposes compensatory mitigation to be located in the City of Shepherdsville's Salt River Park. The proposed mitigation includes the creation of 6.0 acres of bottomland, forested wetland and 2,300 linear feet of riparian zone enhancement along the Salt River. It is noted that this proposed mitigation plan is open to comment and subject to change. The Corps will make a determination of appropriate mitigation, upon review of all submitted information.

REVIEW PROCEDURES: A DA Permit cannot be issued if any legally required Federal, State, or local authorization or certification is denied. A DA Permit, if otherwise warranted, will not be issued until a State of Kentucky Water Quality Certification or waiver is on file at this office. In order to comply with Section 401 of the Clean Water Act, the applicant, by this notice, hereby applies for State certification from the Kentucky Natural Resources and Environmental Protection Cabinet

Division of Water (KDOW).

Copies of this notice are sent to the appropriate Federal and State Fish and Wildlife Agencies. Their views and comments are solicited in accordance with the Fish and Wildlife Coordination Act of 1956. Based on available information, the proposed activity will not destroy or endanger any Federally-listed threatened or endangered species or their critical habitats, as identified under the Endangered Species Act, and therefore, initiation of formal consultation procedures with the U.S. Fish and Wildlife Service is not planned at this time.

Any person may request, in writing, within the comment period specified in this notice, that a public hearing be held to consider this application. A request for a public hearing must state the specific interest that might be damaged by issuance of the DA Permit.

The National Register of Historic Places has been examined and it has been determined that there is one property currently listed on the Register and one archaeological site that is considered potentially eligible for listing on the Register. Prior to taking final action on this application, this office will establish the location of these sites relative to the proposed worksite. Any impacts on such properties will be evaluated and considered in making the final decision. With respect to other sites not currently listed on the Register, if we are made aware, as a result of comments received in response to this notice or by other means, of specific archaeological, scientific, prehistorical, or historical sites or structures which might be affected by the proposed work, the District Engineer will immediately take the appropriate action necessary pursuant to the National Historic Preservation Act of 1966 - Public Law 89-665 as amended (including Public Law 96-515).

The decision whether to issue a permit will be based on an evaluation of the probable impact of the proposed activity on the public interest. That decision will reflect the national concern for both protection and utilization of important resources. The benefits that reasonably may be expected to accrue from the proposal must be balanced against its reasonably foreseeable detriments. All factors which may be relevant to the proposal will be considered; among those are conservation, economics, aesthetic values, general environmental concerns, historic values, fish and wildlife values, flood damage prevention, land use, navigation, recreation, water supply, water quality, energy needs, safety, food production, and in general, the needs and welfare of the public. In addition, the evaluation of the impact of the activity on the public interest will include application of the guidelines (40 CFR Part 230) promulgated by the Administrator, Environmental Protection Agency, under authority of Section 404(b) of the CWA.

The Corps of Engineers is soliciting comments from the public; Federal, State, and local agencies and officials; Indian tribes; and other interested parties in order to consider and evaluate the impacts of this

proposed activity. Any comments received will be considered by the Corps of Engineers to determine whether to issue, modify, condition or deny a permit for this proposal. To make this decision, comments are used to assess impacts on endangered species, historic properties, water quality, general environmental effects, and the other public interest factors listed above. Comments are used in the preparation of an Environmental Assessment and/or an Environmental Impact Statement pursuant to the National Environmental Policy Act. Comments are also used to determine the need for a public hearing and to determine the overall public interest of the proposed activity.

Written statements received in this office on or before the closing date will become a part of the official record and will be considered in the determination on this permit request. Any objections that are received during this period will be forwarded to the applicant for possible resolution before the determination is made whether to issue or deny the requested DA Permit. A permit will be granted unless its issuance is found to be contrary to the public interest.

Information pertaining to this application is available for public examination during normal business hours upon prior request. All comments regarding this proposal should be addressed to Mr. Greg McKay, CEORL-OP-FS at the address noted above and should refer to the Public Notice Number 200400572.